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5   UNITED STATES DISTRICT COURT

6   EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,   )
7   )   NO.   CR-06-0053-WFN-1
                    Plaintiff,   )
8   )
         -vs-   )   ORDER
9   )
JOSEPH A. ROBERTS,   )
10   )
                    Defendant.   )
11

12   A post-trial conference and motion hearing was held February 5, 2007. The Defendant,

13 who is in custody, was present and represented by Philip Nino; Assistant United States

14 Attorney Jared Kimball represented the Government.

15   The Court addressed Defendant's Motion to Withdraw Plea of Guilty. Defendant

16 expressed concern regarding procedural issues prior to entering into the Plea Agreement and

17 the choices made by his previous counsel.

18   The Court has reviewed the file and Motion and is fully informed. This Order is entered

19 to memorialize and supplement the oral rulings of the Court. Accordingly,

20   **IT IS ORDERED** that:

21   1.   Defendant's Motion to Withdraw Plea of Guilty, filed January 12, 2007, **Ct.**

22 **Rec. 81**, is **GRANTED**.

23   The Court finds that the Defendant put forth fair and just reasons for withdrawal of

24 his guilty plea. Defendant complains about several substantive issues he wishes the Court to

25 consider. The Defendant's previous counsel withdrew citing a breakdown of communication

26 shortly after the Defendant's entry of the guilty plea.

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1   2.   The trial is set for **April 2, 2007, at 1:00 p.m., in Spokane,** Washington. For the

2   purposes of speedy trial calculations, the Defendant shall be deemed indicted upon filing of

3   this Order. 18 U.S.C. § 3161(i). The trial shall commence within seventy (70) days of this

4   Order absent a legitimate continuance. 18 U.S.C. § 3161((c)(1).

5   3.   The final pretrial conference is **set for April 2, 2007, at 11:00 a.m., in Spokane,**

6   Washington.

7   4.   Trial briefs, motions in limine, requested voir dire, witness and exhibit lists, and

8   a set of proposed **JOINT JURY INSTRUCTIONS** shall be filed and served on or before

9   **March 19, 2007**.

10   Jury instructions should only address issues that are unique to this case, and shall

11   include instructions regarding the elements of each claim, any necessary definitions and a

12   proposed verdict form.

13   The Joint Proposed Jury Instructions shall include:

14   (a)   The instructions on which the parties agree; and

15   (b)   Copies of instructions that are disputed (i.e., a copy of each party's proposed

16   version of an instruction upon which they do not agree). All jury instructions from the most

17   current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by

18   number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements

19   of LR 51.1(c).

20   Each party shall address any objections they have to instructions proposed by

21   any other party in a memorandum.   The parties shall identify the specific portion of

22   any proposed instruction to which they object and shall elaborate the basis for the objection.

23   Objections asserting that an instruction sets forth an incorrect statement of law shall

24   describe the legal authority that supports this objection.   Failure to file an objection

25   and supporting argument may be construed as consent to the adoption of an instruction

26   proposed by another party.

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1   5. A pretrial conference and motion hearing shall be held **March 13, 2007, at**

2 **9:00 a.m., in Spokane,** Washington.

3   (a)   All motions shall be filed and served no later than **February 27, 2007**.

4   (b)   Responses shall be filed and served no later than **March 6, 2007**.

5   6. Indigent Defendants' requests for issuance of subpoenas and payment of costs and

6 fees for trial witnesses shall be filed no later than ten (10) days before trial, excluding

7 weekends and holidays.

8   7. The sentencing hearing set for February 15, 2007, is **STRICKEN**.

9   The District Court Executive is directed to file this Order and provide copies to counsel

10 **AND TO** United States Probation Officer Alvin Barrett, Jr.

11   **DATED** this 6th day of February, 2007.

12

13   s/ Wm. Fremming Nielsen
                                      WM. FREMMING NIELSEN
14 02-05   SENIOR UNITED STATES DISTRICT JUDGE

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